

By way of background, the instant invention is a paper container specifically to be used as a liner for a plastic grocery sack. It is made of lighter weight paper than normal paper grocery sacks so is not designed to hold groceries on its own, but designed to fit snugly inside a standard-sized plastic grocery sack. As a paper container, it has structural rigidity to help hold groceries upright, such as in an automobile trunk or on a counter or table top. Since it fits snugly within a standard-sized plastic grocery sack, the plastic sack reinforces the lighter weight paper container. The plastic sack and the paper container of the invention work together to provide a container having the advantages of both plastic sacks and paper sacks while eliminating the disadvantages of each. The combination offers efficiency and money savings to the supermarket industry and provides the best of both types of sacks to the consuming public.

As stated in the application, paper sacks provide structural rigidity, but are expensive. On the other hand, plastic is inexpensive, but has no structural rigidity and is generally not preferred by consumers; however, customers do like the handles provided by plastic sacks. Until plastic sacks became common in super markets, paper sacks were used as containers for groceries.

There is fierce competition between the paper industry and the plastic industry for the business of providing grocery containers for customers to transport groceries. Also, as stated previously, plastic sacks are about one-half as expensive as

paper grocery sacks. In the paper industry, standard-sized paper sacks have evolved with standard machinery built to manufacture such standard-sized paper sacks. Such sacks are made of paper heavy enough to support and hold a typical sack of groceries. Meanwhile, in the plastic industry, standard-sized plastic sacks have evolved with standard equipment built to manufacture standard-sized plastic sacks.

The existing competition is between the paper industry trying to hold onto and increase market share for paper grocery sacks and the plastic industry trying to increase its market share. Neither industry has realized that the two can work together to provide a better overall product for the consumer and at the same time increase its own sales. Even though the paper industry would lose sales of its heavy paper sacks, overall sales would increase with the greater use of the lighter weight paper liners.

As can be seen, the practice of both the paper and plastic industries, both promoting their product to the exclusion of the other's product, teaches away from the use of a paper liner specifically to be used inside a plastic grocery sack. It is applicant's realization that a much more effective grocery container can be produced by providing a paper liner expanded to use the space of a plastic sack more efficiently and with lighter weight paper which is reinforced by the close-fitting plastic that is unobvious. The combination that provides the benefits of both plastic sacks and paper sacks without the disadvantages of

either, and being able to do so with a paper liner that would not function as a paper grocery sack on its own, is not obvious. The current practice of using a regular stand alone paper grocery sack inside a regular plastic grocery sack, where the two do not fit well and each performs its own function separately (the paper sack holds the groceries and the plastic sack provides handles for the paper sack but not very effectively because the paper sack is too tall), does not suggest or make obvious applicant's invention which provides a special paper container which fits into and works synergistically with the plastic sack to provide a combination container which truly is greater than the sum of its parts. The resulting combination grocery container provides a superior and unexpected product.

Therefore, the instant invention provides a clear solution to a long-felt, but, as yet unmet need which others have failed to develop.

Enclosed is an Affidavit of Applicant with attached exhibits. Exhibit A shows gross sales, in the form of bulk deliveries, of applicant's invention, identified as PIPsacks, to distributors who supply supermarkets with grocery containers. Exhibit B shows the same information in the form of a graph.

In Exhibit A, in the most left-hand column are listed eight (8) distributors of grocery containers to supermarkets plus Shoprite supermarkets. To the right the columns show bulk deliveries by bales of sacks, each bale containing 500 individual sacks, to each of said distributors by month starting in October

2000 and continuing through May 2002. For each month, the total bulk deliveries are shown.

From Exhibit A, it can be seen that applicant started with two (2) customers (i.e., two distributors of grocery containers) and had only those two customers through May 2001; then the number of customers increased to three (3) during June 2001. It can be observed that applicant's number of customers increased to eight (8) by March 2002. Also, applicant's sales of sacks has increased significantly.

Exhibit B shows total deliveries of the paper containers of applicant's invention to the same distributors for each month from October 2000 through May 2002. Even though deliveries display an up-and-down demand pattern for applicant's product, there is a significant upward trend. From October 2001 there is a dramatic increase in sales to customers which continues to the present.

Exhibits C and D are copies of articles from the trade publications Food Industry Advisor and Tri-State Food News, respectively, specifically about applicant's invention. The articles point out the economic value from a manufacturing standpoint and the functional value from the consumers' standpoint of applicant's invention. The articles refer to the PIPsack as "revolutionary" and "innovative". It indicates that the PIPsack fits better in plastic bags to maintain the grocery carrying capacity of the combination and makes the bag "easier for the customer to carry and produces more convenience at the

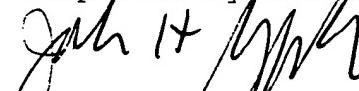
check out." It is a "value added product" for both the supermarket and the customer and reduces costs for the supermarket.

All the exhibits submitted show commercial success of applicant's invention. Since the only known use for the paper container of the invention sold by applicant is as a liner for plastic grocery sacks and the paper containers are sold for that purpose, the commercial success shown is the result of the claimed features of the invention. Both the demonstrated commercial success and the fact that the common industrial trend teaches away from applicant's invention show that applicant's invention is not obvious to a person having ordinary skill in the art to which the subject matter pertains.

Therefore, applicant submits that none of the claims are anticipated by or made obvious by the cited art and should be allowable.

Favorable reconsideration is respectfully requested.

Respectfully submitted,



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